

**Testimony of Elizabeth L. Davis, Former USAF Academy Cadet – Class of 2003,
before the House of Representatives Committee on Government Reform, Subcommittee on
National Security, Emerging Threats, and International Relations, June 27, 2006, at 2:00
p.m., Room 2154, Rayburn House Office Building, Washington, D.C.**

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today on behalf of the thousands of victims of rape, sexual assault and violence at the Academies and in the military. I cannot imagine a more courageous group of individuals and it is an honor to be chosen to aid in making changes necessary to address the issue of sexual assault and violence against women in our prestigious military institutions and to help arrest the grave constitutional crisis that has arisen within its ranks.

**THERE IS A CRITICAL AND IMMEDIATE NEED FOR
CONGRESSIONAL HEARINGS FOR THE VICTIMS.**

Before beginning my statement, however, I would like to state that, although I am grateful for this opportunity, the allocation of only five minutes to the victims is a woefully inadequate amount of time for the victims to give the subcommittee members an idea of the magnitude of the crimes that have been committed against us. These crimes were first committed by our attackers and second by our own officers and a military system that turned against us, rather than protected us, thus destroying our lives, our careers and our families, while our attackers were allowed to go on with their careers, free from punishment or responsibility for their reprehensible crimes.

Over the past few years the military has had many opportunities to appear before Congress and advocated its position, largely unchallenged, as it will again today, while the victims have not and while the crime spree against women in our military continues, seemingly unabated.

As the distinguished, former Representative, Tillie Fowler, Chairwoman of the Fowler Commission observed in her Commission's report, "neither a full appreciation of the magnitude and seriousness of the problem, nor complete understanding of the nature or extent of the impact on these young women is possible without hearing from these women directly and personally." Accordingly, we urge this subcommittee to hold additional hearings so that the victims will finally be able to be heard and to shine the light of truth on this vast, dark stain on our military and our nation. We ask that Congress initiate its own, non-military, independent investigation of the problem of rape and sexual assault at the Air Force Academy, the other Academies and in the military at large, including an investigation into the culpability of the officers and officials in charge. Nothing short of this will suffice.

THE REPORTING OF CRIMES AT USAFA AND THE SYSTEMATIC REPRISALS BY THE COMMANDING OFFICERS AGAINST THE VICTIMS.

My name is Beth Davis and I am a former cadet of the Class of 2003 of the United States Air Force Academy.

As has now become well-known, I was raped and assaulted repeatedly my freshman year by a superior cadet in my squadron. In a situation where I was blackmailed, degraded, and threatened daily, I found myself utterly distraught. In earlier Sexual Assault briefings during my Basic Cadet Training, upper-class women cadets informed us that it was very likely that we would be raped or sexually assaulted during our time at the Academy and they instructed us that, if we were attacked, to not report it to authorities because it would effectively destroy our career. Images of those women flashed through my mind and deterred me from immediately reporting these crimes to my commanding officers. I remembered my pride in getting accepted to the Academy and I dreamt of the day I would graduate and fly my jet in defense of my country. I thought that was all I needed to survive the grueling physical, military, and academic tests and challenges I endured everyday. But these dreams couldn't carry me through the pain I was suffering at the hands of my superior. I began to get sick frequently and developed inhibitions and phobias that made the work demand at the Academy unbearable. Finally, after realizing that nothing could possibly hurt more than the pain I was enduring then, I broke down and went to the Office of Special Investigations ("OSI") with my story.

The OSI commander sat engrossed as I sopped tears from eyes reciting every wretched detail for the first time, months after the last incident. He began to weep with me, declaring, "Don't worry Beth, this SOB is going to jail!" Upon leaving his office, I felt I had done the right thing after all, but it wasn't long before that feeling diminished and disbelief set in. About six months into the investigation, I was called into OSI and the Commander informed me that the legal office had shut my case down. Having been integrally involved in the investigation throughout those six months and seeing the many coinciding testimonies from other cadets in my squadron, this seemed suspicious. I went directly to the legal office to inquire why they had closed my case and was adamantly told, that every case on the base crosses their desk, and, contrary to the statements of the OSI Commander, they had never even seen my case.

I immediately realized something nefarious was going on and I started to worry that the warnings of the upper-class women in Basic Training were becoming a reality for me. After questioning the OSI Commander again, he apologized for misleading me and told me that, in fact, the Training Group Commander had shut my case down "for my own good," even though he didn't have the authority to do so. Utterly discouraged, I marched into the Training Group Commander's office and blatantly asked why. As he stumbled for words, he claimed there was nothing he could do for me and ordered me to see the base psychologist within the half hour. As I arrived at the psychologist's office, the doctor hung up his phone and declared, "That was your Commander and he's says we need to diagnose you with something that gets you sent off base!" Not fully understanding what was happening, I sat down as he scribbled on my medical records. Immediately after leaving, I called a mentor officer of mine and informed him of what had happened and the diagnosis given. He frantically responded, "Beth, he not only just took your pilot qualification, he took your commissioning as well! Go back into his office and get all of

his information!" As I walked back in, the psychologist crumbled before me, claiming that he was under a direct order and pleading with me to not turn him in.

In the meantime, my Training Group Commander had already scheduled a Medical Review Board to assess the psychologist's diagnosis of me and determine whether or not I should be disenrolled as a result. He was also in the process of officially serving me with three of the Academy's most detrimental punishments, with each of these Class D demerits being grounds for disenrollment from the Academy. To my shock and dismay, the demerits were for "Sex in the Dorms" because my rapes took place in the dormitory, "Fraternalization" because my rapist was an upperclassman, and "Alcohol" because I had included in my written statement to OSI that my perpetrator had been buying alcohol for my underage peers. As my world and everything I believed in crumbled before me, I realized I was being castigated and thrown out of the Academy for reporting the heinous crimes that had been committed against me.

As an additional strike against me, I later learned that certain undisclosed codes were entered on my discharge papers, thus effectively prohibiting me from holding another military or government job in the future.

ALL-TOO COMMON STORIES OF OTHER USAFA VICTIMS AND A CONTINUING PATTERN OF RETALIATION AGAINST THE VICTIMS.

I returned home and began to hear the stories of many other women cadets that had endured the similar mistreatment and retaliation by the Academy after reporting their crimes: One victim raped by the class president of the Academy; another victim, raped by a senior cadet and then called a liar by Academy officials after reporting, with her family (including her mother, an Air Force Colonel at the Academy) being affirmatively disparaged by Academy officials to members of the media after her story became public; another victim being verbally berated and humiliated by the Academy Commander, General "Taco" Gilbert, with his now infamous "\$100 dollar bill" comments; and with another victim raped by a serial rapist, whose crimes, including the forcible rape of a young civilian in a wheel chair, were known to the Academy officials, who let him roam free at the Academy. Other shocking stories were revealed of past gang rapes and violent assaults of women cadets by organized groups of male cadets. Although the details of these and other stories were different, they all had the same common thread; after reporting these crimes, the women victims were investigated and persecuted, with their reputation and careers destroyed, while the male attackers went free, oftentimes to go on and continue to rape and assault other women cadets.

THE MILITARY CAN NO LONGER BE TRUSTED TO INVESTIGATE ITSELF.

Shortly after my dismissal from the Academy, I sent an email out to fellow cadets detailing what they should do in the case of rape and which was eventually brought to the attention of the Secretary of the Air Force. Around the same time, another cadet sent an email to the media and members of Congress, which helped bring this terrible problem into the light of day and before the eyes of an angry American public and Congress, which later mandated that an independent panel be established to assess the problem.

As the media took hold, a widespread culture of misogyny and abuse was revealed, despite the Air Force General Counsel, Mary Walker's disingenuous Working Group Report of June, 2003 which unbelievably stated that there were "no systematic problems with sexual assault at the Academy."

The independent Fowler Commission found something much different. In its Report of The Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy of September 2003, the Commission recognized that a grave scandal had befallen the Academy. Worse yet, it revealed that the Air Force's Working Group Report was rife with conflicts of interest and failed to disclose evidence that Air Force leadership had known about the problem for years but had not taken adequate steps to address it. The Fowler Commission expressed great concern over the paper trail of evidence which incriminated officers and whitewashed the injustices at the Academy. The Fowler Commission identified culpable officers and recommended action be taken to hold them accountable.

It was evident that the military could not be entrusted with the task of investigating itself.

I was proud to have provided testimony to the Fowler Commission, along with several other of my fellow cadets, all of whom were victims of rape and sexual assault at the Academy and all of whom were persecuted by Academy officers after they courageously came forward and reported the crimes that had been committed against them.

We then brought our cause before various members of the Senate Armed Services Committee and requested that hearings for the victims be held. As a result of our efforts, Senators McCain, Collins and Clinton officially presented a written request for hearings on our behalf to Senator Warner, who granted the request on the eve of the airing of our appearance on the Oprah Winfrey show in December, 2003, and after the majority of the members of the Armed Services Committee had lent their support to our request, as well. We are unfortunately still awaiting Senator Warner's delivery of his promise and we again urge the members of this subcommittee to continue in their focus on this issue and to hold additional hearings so that the victims can bring their claims before Congress, rather than before the deaf ears of military officers and investigators.

Over a year after the Fowler Commission's recommendation that certain, specific officers be investigated and disciplined for their role in the controversy, the Inspector General of the Department of Defense ("DOD") produced the next military-prepared report on the situation at USAFA in the Evaluation of Sexual Assault, Reprisal, and Related Leadership Challenges at the United States Air Force Academy of December 3, 2004. Rather than following the directives of the Fowler Commission, this report shockingly exonerated the very officers that the Fowler Commission found at fault. Representative Tillie Fowler's direct and concise media comment on the DOD report, given shortly before her death, was that the DOD's report was "shameful."

It became even more apparent to us that the military could not be trusted to either investigate itself or assess or apportion responsibility for its officers' actions and inactions.

Around the same time, it was revealed in the media that the Air Force's top military lawyer and Judge Advocate General had resigned amidst scandalous allegations that he had committed sexual misconduct with 13 female subordinates over the past ten years. According to the Air Force's own Inspector General, Steven Polk, rather than providing guidance to the 1,600 lawyers under his command for the prevention and prosecution of sexual harassment, the Judge Advocate General "exhibited stunning hypocrisy by his own sexual harassment of JAG Corps subordinates." Although this may have come as a shock to the public, it was no shock to the victims at the Academy. Nor was the subsequent resignation of Air Force Secretary, James Roche, in the midst of allegations of scandal over the Air Force Academy sexual assault matter and the proposed leasing of aircraft by Boeing.

It became clear that a deep problem of character, attitude and example existed throughout the highest ranks of Air Force leadership.

Yet another shocking example of the Air Force's blatant disregard for Congressional mandates and the victims was only weeks away. In a memo delivered to the Secretary of Defense on Good Friday, 2005 (the day Pontius Pilate washed his hands of Jesus and during the Congressional recess), the new acting Secretary of the Air Force, Peter Teets, officially exonerated all of the Air Force officers implicated in the sexual assault scandal at USAFA by the Fowler Commission and the Inspector General's office. Teets stated that "... the highly unusual step of imposing disciplinary action... is not warranted" and shortly thereafter resigned his position as Secretary of the Air Force.

It became clear to us that the military establishment was now free to act as an autonomous body, and would protect its officers and officials at the expense of the victims, unaccountable to and in blatant disregard of Congress and of the public, unchecked by the laws of the United States or the Constitution.

THE JUNE, 2005 TASK FORCE REPORT AND ADDITIONAL RECOMMENDATIONS FOR CHANGE.

We commend the subcommittee for taking steps that may help us understand a military culture that allows this problem to continue and we commend the Defense Task Force on Sexual Harassment & Violence at the Military Service Academies for their efforts. We hope that continued efforts will eventually produce a healthier training environment for our nation's best and brightest and future military officers. The Task Force's recommendations as outlined in its June 2005 Report, however, are inadequate. First, the recommendations are devoid of any leadership accountability. The Air Force, Department of Defense, and Congress have still done nothing about the accusations we made against the officers who retaliated against us, simply for reporting the crimes that had been committed by our attackers.

By the Department of Defense's own statistics, the number of women cadets who have been raped and/or sexually assaulted at the U.S. Air Force Academy likely exceeds 1,000. To this day, the number of male USAFA cadets who have been court martialled, convicted and punished for raping a fellow cadet, however, still stands at zero. In one of the rare recent cases to be pursued, the military court placed the victim in the position of either waiving her privilege

of confidentiality over her private medical and therapeutic records, or losing her ability to prosecute her attacker. This victim knew that turning her privileged records over to her rapist and his attorney to use against her would create a chilling effect on other victims' willingness to seek medical and therapeutic treatment after an attack. In upholding this important privilege against the mandate of the military court, she was forced to place her attacker's court martial in an indefinite state of suspension. The military court further threatened to have the therapist jailed for her continued refusal to turn over these privileged records.

Properly, the Task Force's Recommendation 9A suggests that "Congress should create a statutory privilege protecting communications made by victims of sexual assault to health care providers and victims advocates." We urge that immediate steps are taken to create this statutory privilege.

Additional necessary recommendations, not included in the June 2005 Task Force Report include the following:

1. The allowance and subsidy of civilian legal counsel for victims of rape and sexual assault, so the victims rights are clearly explained and understood at the critical time immediately following an assault and to provide for nonmilitary oversight throughout the process of reporting and prosecuting these crimes.

2. A Congressionally mandated statutory exception to the Feres Doctrine, so that military victims who report crimes of sexual assaults within the military and/or who are later persecuted by military officers or officials for doing so can seek redress against the military, the attackers and/or the officers in question in civilian courts.

3. The granting of Congressional hearings for the victims of rape and sexual assault at the Air Force Academy, the other Academies, and the military at large. The light of truth must shine on the terrible crimes committed against us by our attackers and our commanding officers and military officials. Only after these crimes are revealed to Congress and to the American public can the true nature of the magnitude of this problem be assessed and effective solutions be accordingly designed and implemented.

4. The institution of an independent, nonmilitary Congressional investigation into the problems of rape, sexual assault and reprisal at the Air Force Academy, the other Academies and the military at large, including an investigation into the actions and/or inactions of the officers and officials in charge, including any and all committees, reports and other studies relating to the problem over at least the past ten years.

5. The vigorous prosecution and punishment of those individuals found culpable in such Congressional investigations.

6. The provision of appropriate redress and compensation for and to the victims for their loss of medical and educational benefits, past, present and future military income and from the loss of the benefit of their military careers and the incurrence of any legal fees in connection with their assaults or related reprisals.

7. The provision of continued, lifetime medical and educational benefits so that the victims of these crimes can seek proper treatment and therapy and have the option to continue their education.

8. The provision of an official apology to the victims of these crimes and the official restoration of their honor before Congress, the military and the American people.

**CONCLUSION: WE NOW LOOK TO CONGRESS TO PRESERVE
AND PROTECT OUR CONSTITUTIONAL RIGHTS.**

In over three very long years of pursuing justice, our Constitutionally guaranteed First Amendment rights to a redress of grievances against our former commanding officers have been repeatedly denied to us by the U.S. military and the continued inaction of our elected officials. We did not give up our Constitutional rights when we joined the military. We have also not lost our Constitutional rights since resigning from the military. The Air Force, Department of Defense and Congress have still done nothing about the accusations we made against the Academy officers who created false, misleading and incomplete original crime reports (if they even bothered to file one in the first place) and who deliberately disposed of crime scene evidence and who also persecuted, libeled, slandered and ruined our careers in the Air Force for reporting these crimes.

No government of the people, by the people and for the people, that truly values justice should continue to allow alleged criminals to investigate themselves, much less grant blanket exonerations to themselves while their victims and their witnesses are not allowed to testify or present evidence in court or officially before Congress. The effective result of the last few years of activity has been the denial of justice to the victims and the prevention of the attackers and accused officers from ever being held legally responsible and accountable.

This negligence in leadership accountability has cemented a dysfunctional paradigm of leadership values and roles in the young minds of the military's budding officers. Cadets believe that if their leadership isn't held to the standards of Academy life, they shouldn't be either... and the statistics prove that to be the case. The perception of cadets is that they are at war with the leadership, simply because the leadership attempts to enforce rules to which they themselves don't adhere. It has bred a cynicism amongst the cadet population that has resulted in a "Lord of the Flies" environment where male cadets wantonly rape, assault and harass female and subordinate cadets with impunity, resulting in the scandalous misconduct that has brought us here today.

It is an outrage that we have to remind those who still deny us justice that we all volunteered to serve our country. We are not anti-military. We are anti-crime. We all reported multiple crimes committed against us, exactly as all law-abiding citizens of any free nation should. This was in spite of repeated and ongoing personal threats of reprisals and humiliations directed at us by our own peers and commanding officers. It was done to all of us. In the pursuit of justice and to bring Congressional and public attention to these crimes, in order that future women may someday safely serve their country at the Academies and in our military, we and our

families have exhausted our savings and our assets and sacrificed years out of our education, careers and lives. So far not one penny of compensation, much less an apology, has ever been offered to any of us.

Despite the supposed attention given to this problem and the many millions of taxpayer dollars spent on military-prepared reports, studies and training, the problem persists unabated, while the number of convictions and punishments of attackers and criminal officers at USAFA remains at zero.

I ask, how can you, our elected members of Congress, send U.S. women soldiers off to fight in Iraq and Afghanistan with the intent of giving citizens of those countries democratic rights and legal justice when at the same time those same rights are being denied to the women of our own military?

We urge you, and the other members of Congress to at long last take decisive action to bind the rising tide of injustice and the unchecked wave of rape and sexual assault that washes through our military and continues to flood our nation's shore with the drowned bodies of our individual liberty. We ask for the grant of public hearings so that the victims of rape, sexual assault and reprisal in the military may be clearly heard so that the problem may be properly addressed; we ask for an independent Congressional investigation into these matters and the military's response and that appropriate steps be taken against those found culpable so that an example will be rendered to all Americans that these crimes will not be tolerated by our nation; and we ask for the restoration of the honor, reputation, educational and medical benefits and the financial well beings of the victims of these crimes so that they may attempt to begin their lives again.

I commend my fellow victims for their courage in coming forward and I urge other victims to do so, as well. On behalf of all of the victims and their families I thank you for this opportunity to present my testimony.